



State of New Jersey

DIVISION OF THE RATEPAYER ADVOCATE

31 CLINTON STREET, 11TH FLOOR

P.O. Box 46005

NEWARK NJ 07101

March 30, 2000

CHRISTINE TODD WHITMAN  
Governor

BLOSSOM A. PERETZ, ESQ.  
Ratepayer Advocate  
and Director

**ECFS AND OVERNIGHT MAIL**

Ms. Magalie Roman Salas

Office of the Secretary

Federal Communications Commission

445 Twelfth Street, S.W.

Room TW-A325

Washington, DC 20554

RECEIVED  
MAR 31 2000  
FCC MAIL ROOM

**Re: I/M/O Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service, CC Dockets Nos. 96-262, 94-1, 99-249 and 96-45, FCC 99-235, Supplemental comments on the Modified CALLS proposal per Public Notice DA 00-533 dated March 8, 2000**

Dear Secretary Salas:

The New Jersey Division of the Ratepayer Advocate hereby submits its comments, as electronically filed, in response to the the Public Notice requesting supplemental comments on the modified proposal submitted by the Coalition for Affordable Local and Long Distance Service ("CALLS").

Very truly yours,

Blossom A. Peretz, Esq.,

DIVISION OF THE RATEPAYER ADVOCATE

By: Christopher J. White

Christopher J. White, Esq.

Asst. Deputy Ratepayer Advocate

CW/dlc

cc: Wanda Harris, Competitive Pricing Division  
ITS, Inc.

No. of Copies rec'd 074  
List A B C D E

March 30, 2000

**ECFS AND OVERNIGHT MAIL**

Ms. Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room TW-A325  
Washington, DC 20554

**Re: I/M/O Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service, CC Dockets Nos. 96-262, 94-1, 99-249 and 96-45, FCC 99-235, Supplemental comments on the Modified CALLS proposal per Public Notice DA 00-533 dated March 8, 2000**

Dear Secretary Salas:

The New Jersey Division of the Ratepayer Advocate hereby submits its comments, as electronically filed, in response to the the Public Notice requesting supplemental comments on the modified proposal submitted by the Coalition for Affordable Local and Long Distance Service ("CALLS").

Very truly yours,

Blossom A. Peretz, Esq.,  
DIVISION OF THE RATEPAYER ADVOCATE

By: Christopher J. White  
Christopher J. White, Esq.  
Asst. Deputy Ratepayer Advocate

CW/dlc

cc: Wanda Harris, Competitive Pricing Division  
ITS, Inc.

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED  
MAR 31 2000  
FCC MAIL ROOM

In the matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local	)	
Exchange Carriers	)	CC Docket No. 94-1
	)	
Low-Volume Long Distance Users	)	CC Docket No. 99-249
	)	
Federal-State Joint Board on Universal	)	CC Docket No. 96-45
Service	)	

COMMENTS ON BEHALF OF THE  
NEW JERSEY DIVISION OF THE RATEPAYER ADVOCATE  
ON THE CALLS' MODIFIED PROPOSAL

BLOSSOM A. PERETZ, ESQ.  
RATEPAYER ADVOCATE  
Division of the Ratepayer Advocate  
31 Clinton Street- 11th Floor  
Newark, New Jersey 07101  
(973) 648-2690

By:  
Christopher J. White, Esq.  
Asst. Deputy Ratepayer Advocate

## INTRODUCTION & EXECUTIVE SUMMARY

The Division of the Ratepayer Advocate ("Ratepayer Advocate"), an independent agency of the State of New Jersey representing the interests of all classes of New Jersey consumers submits its comments in response to the Federal Communications Commission's ("FCC's") Public Notice released March 8, 2000.<sup>1</sup> The FCC seeks comments on a modified proposal offered by CALLS which contains amendments to the initial plan for interstate access charge reform and universal service reform that was filed on August 20, 1999.<sup>2</sup> The modified proposal makes the following revisions to CALLS' initial proposal:

- Lower caps on Subscriber Line Charges ("SLCs") than under the original CALLS proposal, both initially and throughout the five year plan;
- An interim cost review to verify the caps for residential and single line business Subscriber Line Charges;
- A \$2.1 billion reduction in switched access usage rates on July 1, 2000, if all companies participate, and a reduction of nearly 50% in switched access rates over five years, without shifting local switching costs to primary residence and single line business end user charges (as would have resulted from the original plan);

---

<sup>1</sup> See Public Notice DA 00-533 released March 8, 2000 seeking supplemental comments on the modified proposal submitted by the Coalition for Affordable Local and Long Distance Services ("CALLS"). CALLS members included AT&T, Bell Atlantic, Bell South, GTE, Sprint, and SBC.

<sup>2</sup> See I/M/O Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service, CC Dockets Nos. 96-262, 94-1, 99-249 and 96-45, FCC 99-235, Notice of Proposed Rulemaking (released September 15, 1999) ("*NPRM*") in response to the proposal submitted by CALLS. The initial CALLS proposal was comprised of three appendices, Appendix A, Appendix B and Appendix C. Appendix A is a detailed summary of the proposal addressing without limitation (1) ILEC recovery of Universal Service contributions, (2) common line rate structures simplification including deaveraging of common line rates and universal service, and (3) reducing traffic sensitive interstate access rates (hereinafter referred to as and cited to as "Appendix A"). Appendix B is the proposed amendments to various sections of the Code of Federal Regulations necessary to implement the provisions set forth in Appendix A (hereinafter referred to as and cited as "Appendix B"). Appendix C is a Memorandum In Support of the Coalition for Affordable Local and Long Distance Service Plan (hereinafter referred to as and cited as "CALLS Memorandum").

- Elimination of minimum usage charges for AT&T basic schedule long distance callers, and preservation of a no-minimum plan by Sprint, provided that there is a \$2.1 billion reduction in switched access usage rates as of July 1, 2000;
- Guaranteed rate reductions in special access services for the first four years of the plan; and
- A commitment by CALLS to work with the FCC Consumer Information Bureau to develop a consumer education plan.

The revised plan also includes additional unilateral long distance pricing commitments by AT&T and Sprint.<sup>3</sup>

For the reasons discussed below, the Ratepayer Advocate submits that the CALLS proposal, as modified, still suffers from the substantial and material infirmities previously raised by the Ratepayer Advocate in our initial comments filed on November 12, 1999. As a result, the Ratepayer Advocate urges the FCC to reject the CALLS proposal, as modified, in its entirety as contrary to the public interest.

**CALLS' Proposed Modifications Do Not Eliminate The Infirmities That Make Acceptance Of The CALLS' Proposal Contrary To The Public Interest.**

In comments filed on November 12, 1999, the Ratepayer Advocate urged the FCC to reject the initial CALLS' proposal because its analysis showed that the proposal:

- Unfairly favors ILECs and IXC's at the expense of consumers;

---

<sup>3</sup> The modified CALLS proposal is comprised of six appendices, Appendix A, Appendix B, Appendix C, Appendix D, Appendix E, and Appendix F. Appendix A is a detailed summary of the proposal. Appendix B is proposed regulatory revisions to Part 54 of the FCC's Code of Federal Regulations, 47 C.F.R. Part 54. Appendix C is a Memorandum in Support of the Revised Plan of the Coalition for Affordable Local and Long Distance Service. Appendix D is the proposed regulatory revisions to Part 61A of the FCC's Code of Federal Regulations, 47 C.F.R. Part 61A. Appendix E is the proposed regulatory revisions to Part 69A of the FCC's Code of Federal Regulations, 47 C.F.R. Part 69A. Appendix F is the unilateral commitments offered by AT&T and Sprint offered as additional support to obtain the FCC's approval of the CALLS proposal, as modified.

- Causes residential consumers to pay higher rates without realizing any benefit;
- Causes small businesses with multiple lines to pay higher rates without realizing any benefit;
- Lacks support to justify the different treatment between residential/single line business customers and multiline business customers and between non primary residential lines and residential/single line business customers;
- Does not explain why if Presubscribed Interexchange Carrier Charges (“PICC”) charges are to be phased out for multiline business customers, then PICC charges for residential/single line business customers are not to be eliminated as well;
- Continues the practice of higher SLC charges for non primary lines and multiline business lines as opposed to implementing a uniform charge for all end users with the additional protection that such uniform charge be capped at no more than \$3.50;
- Frustrates the FCC’s goal of reducing traffic-sensitive interstate access rates to costs and imposes an artificial cap on access charge decreases which precludes further reductions in access charges in response to competitive forces; and
- Subverts the public policy underpinnings for rate cap regulation by proposing changes to the FCC’s X factor.

### **CALLS Has Not Met Its Burden Of Proof To Show The Proposal, As Modified, Is In The Public Interest**

The Ratepayer Advocate submits that CALLS bears the burden of proof to demonstrate that its proposal is in the public interest. At a minimum, this requires that CALLS provide full, accurate and complete disclosure on the benefits and drawbacks of its proposal. Full and complete documentation must accompany its petition. As previously discussed, CALLS has simply failed to provide full, complete and accurate disclosure and supporting documentation with its filing.

By way of example, CALLS now admits that its initial proposal adversely affected residential customers by shifting local switching costs to primary residence and single line business end users. CALLS failed to disclose this in its initial filing. This lack of analysis reinforces and underscores

our concern that the justifications offered in the record to date are not adequate. At a minimum, CALLS must address the following matters including submission of full and complete documentation and empirical data in support of its assertions and conclusions. CALLS must explain:

1. Why, in a declining cost industry, it is necessary to increase the cap on SLC as proposed by CALLS and why it did not provide a state by state analysis of what effect its proposal will have on SLC charges in each state?
2. Why SLC caps must be increased to achieve full cost recovery of traffic sensitive costs in the future when costs are declining for basic phone service?
3. Why defer an interim cost analysis until the SLC charge exceeds \$5.00? Why not do the analysis now to see if any increase in caps is warranted or whether a lower cap is warranted?
4. What effect does loss of market share by ILECs to CLECs as competition increases have on full recovery of traffic sensitive costs in relation to the scheduled increases in SLC caps? Are the SLC caps being increased to compensate for the effect loss of market share has on full recovery of traffic sensitive costs?
5. What changed circumstance does CALLS foresee in the future that would cause under recovery of traffic sensitive costs at the existing rate caps?
6. The CALLS' implicit assumption is that over time SLC caps must be increased or else full recovery of traffic sensitive costs will not occur. What empirical data supports this premise?
7. Since only a limited number of states are effected under the current cap, why not use the waiver process to afford relief to those affected states in the future? Identify the affected states and what circumstances explain why they are different from the other states.
8. What circumstances are different today than in August 1999 that now permit a lower SLC cap than the proposed increase to \$5.50 initially offered?

The FCC should direct CALLS to supply full and complete answers to these questions. Only then should the FCC consider whether further consideration of this proposal is warranted and otherwise in the public interest.

For the reasons discussed in our initial comments, the Ratepayer Advocate urges the FCC to cap SLC and PICC charges at or below \$3.50 and apply the cap uniformly to all end users. Identical charges should apply to residential, single line business, non primary lines, and multiline businesses. This promotes a level playing field in which competitive forces can operate. With the advent of advanced telecommunications services, a significant portion of the total local loop cost is attributable to deployment of advanced services. Basic phone service costs are declining and should continue to decline. Consumers should not shoulder the cost associated with advanced services which they do not currently use and may in fact never use. The current regime for recovery of loop charges, unless revised, does just that.

In our opinion, CALLS is seeking a substantial increase in the SLC caps to \$7.00 from present levels in order to fund deployment of advanced services on the backs of ratepayers. The Ratepayer Advocate believes that a combined SLC and PICC cap of \$3.50 may well recover all non-traffic sensitive costs of the local loop if the embedded costs associated with upgrading the local loop for advanced services were removed.

In the alternative, the Ratepayer Advocate believes that any loop cost not fully recovered by a \$3.50 cap should be apportioned and recovered from all services which use the local loop, such as vertical services, advanced services and optional services. The cost of the local loop should be apportioned among all services that rely on the local loop to deliver services.



Under the current regime, cost of the local loop is not allocated to other services. We urge the FCC to change this. Allocating the local loop to other services would enable consumers of basic telephone service to pay lower rates than the substantially higher rates they will pay if the CALLS' proposal is adopted. Consumers should not be asked to pay now for technology of the future which they do not currently use and may in fact never use. In a competitive market, the CALLS' members, as competitive providers of advanced technology, must shoulder the risk that there is a market for advanced services. This is one of the tenets for replacing regulation with competition as part of the new paradigm. If there is a market, then the users of advanced services will ultimately cover the costs for advanced technology and supply the rewards through the rates they pay for advanced services. If no market exists, then competitors will bear the cost. Consumers should not be asked to underwrite that risk by permitting the SLC caps to rise as proposed by CALLS. To adopt the CALLS proposal, would be to perpetuate the untenable proposition that in a declining cost industry, rates should rise.


### **Conclusion**

The Ratepayer Advocate believe this modified proposal leaves unaffected our initial concerns set forth in our comments of November 12, 1999. There is no evidence, let alone empirical evidence, to demonstrate that the adoption of this proposal in whole or in part is in the public interest. In addition, the various issues raised herein are currently being addressed in multiple and separate ongoing FCC proceedings. These ongoing proceedings are the appropriate forum to address the relief requested by CALLS members. These other proceedings already have or are developing an extensive and fully documented record from which the FCC can decide the complex issues so that

the public interest is served. Therefore, the Ratepayer Advocate urges the FCC to reject the CALLS proposal as modified. The public interest is not furthered by this proposal.

Respectfully submitted,

BLOSSOM A. PERETZ, ESQ.  
RATEPAYER ADVOCATE

  
By: Christopher J. White  
Christopher J. White, Esq.  
Asst. Deputy Ratepayer Advocate

Dated: March 30, 2000